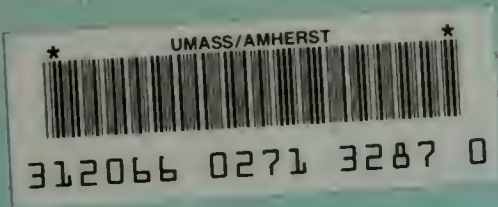


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REGULATIONS GOVERNING THE  
SCHOOL BUILDING ASSISTANCE ACT  
CHAPTER 645 OF THE ACTS OF 1948 AS AMENDED  
FY 1986

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DIVISION OF SCHOOL FACILITIES AND RELATED SERVICES  
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Publication #14110  
Approved by  
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## PREFACE

This document contains regulations governing the administration of Chapter 645 of the Acts of 1948 as amended. In accordance with law, these regulations are adopted and published annually by the Board of Education after a period of public comment and review by the Legislature.

The regulations were first required by Chapter 302 of the Acts of 1976, and have been expanded in response to a continually growing statute.

The purpose of the regulations is to clarify and elucidate the statute. Implementation of the statute and its regulations is made in light of their intrinsic provisions consistent with current good educational practice, Board of Education policy, related statutes, and past agency practice.

John A. Calabro, Ph.D.  
Administrator  
October 11, 1985



(603 CMR 35.00 through 37.00: REVERSED)

603 CMR 38.00: SCHOOL CONSTRUCTION

Section

- 38.01 Definitions
- 38.02 Priorities
- 38.03 Procedures and Program and Cost Standards
- 38.04 Program and Cost Standards
- 38.05 School Improvement Project
- 38.06 Leasing of Space for Vocational Programs
- 38.07 Waiver

38.01: Definitions

The following terms shall have the following meanings.

The Act. The words the Act shall mean Chapter 645 of the Acts of 1948, as amended.

Application. For the purpose of 603 CMR 38.00 there shall be two types of application, namely an application for project approval and an application for inclusion in a quarterly priority list. An application for project approval shall consist of all materials and written information required by the Board acting through the School Building Assistance Bureau to demonstrate that the planning for a proposed project is complete at least through the preliminary plan stage of development. An application for priority shall consist of sufficient material and written information to permit the Board acting through the School Building Assistance Bureau to determine whether a proposal shall be included in a quarterly priority list.

The Board. The word Board shall mean the Board of Education of the Commonwealth.

Educational Specifications. The term educational specifications shall mean a numerical and verbal description of a specific educational program for a specified number of students over a specified period of time, together with spaces needed to support the program. The educational specifications document shall be complete to the degree that an architect may use it as the basic document from which to create the design of the facility. Educational specifications may consist of forms or narrative or both as specified from time to time by the Department of Education.

The educational specifications and plans for any school project for which there is an agreement between the city, town, or regional school district constructing the project and any department within the Executive Office of Human Services for the ongoing use of such project by the residents of an institution under said department shall be subject to approval by staff of the School Building Assistance Bureau as an integral part of the application approval process as set forth elsewhere in 603 CMR 38.00, and such educational specifications and plans shall have the approval of the school committee and other appropriate agencies.

Final Working Drawings. Final working drawings consist of plans which together with specifications form the basis for bids. Final plans shall substantially reflect the approved preliminary drawings and shall bear the seal of an architect registered in Massachusetts.

Growth District. A growth district is one determined by the Board of Education in a written finding as a city, town, or regional school district in which the actual increase in school attending children in the district has been more than five percent over the past eight years; or the projected increase in enrollment for the next five years will be five percent or more; and such projected increase in enrollment for the next five years is greater than the statewide projection.

Ongoing Use. An ongoing use of a proposed project in connection with a human services agreement shall extend for a period of not less than five years from the date of occupancy of the project as determined by the Board or for the term of any bonded indebtedness for the project, whichever is longer.

Preliminary Plans. Preliminary plans shall consist of floor plans, elevations, layouts if requested, site plans, plot plans, topographical plans, and plans showing the location of the proposed project in relationship to other schools in the district, other plans deemed necessary by the School Building Assistance Bureau, and shall bear the seal of an architect registered in Massachusetts.

Receipt of Application. Receipt of application shall mean the date on which an application is placed before the Board for approval.

Renovation Project. The words "renovation project" shall encompass approved school projects authorized by Chapter 754 of the Acts of 1968 and shall include projects for reconstruction, remodeling, rehabilitation, and modernization of school buildings. Such projects shall consist of work of such scope that, in lieu thereof, proper utilization of the present educational facilities would require complete structure replacement. A renovation project shall be aimed at providing an educational facility substantially equivalent to that of a new facility and shall consist primarily of work other than deferred maintenance.

School Improvement Project: The words school improvement shall mean a capital project required in the judgment of the Board for the improvement of a schoolhouse or central kitchen when general reconstruction, remodeling, rehabilitation, or modernization of the schoolhouse is not required and the schoolhouse or central kitchen otherwise meets the standards of the Board. Improvement of a schoolhouse shall include, but shall not be limited to, projects to replace the roof of a schoolhouse where such project is not due to a pattern of deferred maintenance, for such projects designed to make a school building more energy efficient, for projects required to eliminate a structural safety hazard, or for projects designed to improve the drainage or sewage systems on the site, or to provide site improvements related to physical education, outdoor education, or safety. For a project the capital costs of which amount to less than \$10,000 (excluding interest), there will be a presumption that such project is not a capital project within the meaning of

38.01: continued

St. 1948, c. 645 as amended by St. 1983, c. 515. The Board of Education in its discretion reserves the right to waive this minimum requirement when it determines that a proposed project is in the best interest of the applicant and of the commonwealth.

38.02: Priorities

603 CMR 38.02 is promulgated pursuant to the authority of the Board of Education stated in Section 8B of Chapter 645 of the Acts of 1948, as amended, to define the procedures pursuant to which the priorities established by that section will be implemented.

- (1) Publication of List of Project Applications. Beginning on July 1, 1976, and every three months thereafter, the Board shall publish a list of all project applications received showing the priority assigned to each such project. In the case of school projects ordered or approved by a court as necessary for desegregation or such projects as may be required in the judgment of the Board to reduce or eliminate racial imbalance, the Board of Education shall establish and publish a second priority list separate and distinct from the list of all other school projects.

The priority lists shall be established quarterly by the Board and shall be published in Education, the Commonwealth, a publication of the Board, or other publications having a wide distribution.

The Board shall use the following standards in establishing priorities for projects other than those designated by the Board as needed to reduce or eliminate racial imbalance or those ordered by a court as necessary for desegregation.

- (2) Priority One. Priority shall be given to school projects needed in the judgment of said Board to replace or renovate a building which is structurally unsound or otherwise in a condition seriously jeopardizing the safety of children, where no alternative exists.

- (a) To qualify as a Priority One project, a proposed school project shall comply with the following:
1. The existing facility in question must be characterized by conditions which seriously jeopardize the safety of students attending the facility or who have been ordered for reasons of safety not to attend the facility by an agency legally authorized to do so.
  2. The facility must be needed as part of the system's total school plant to accommodate the approved program of the school system. That is, the facility must present the most economically and educationally sound solution to the facility problem, after all feasible alternatives including but not limited to those listed in Section 8C of the Act have been considered. Redrawing of attendance areas within a school system shall be considered as an alternative to construction or as a means of reducing proposed construction.

38.02: continued

(b) In determining that a proposed project is a Priority One project, the Board may:

1. Require the applicant to submit a written evaluation of the facility by the locally responsible building inspector, by a structural engineer, or other technically qualified specialist retained by the applicant, as to the structural soundness of the facility, the feasibility of making it sound, and the feasibility of converting the structure if necessary to support a modern program.
2. Require the applicant to submit such estimates of costs as the Board deems advisable.
3. Require the applicant to submit a written evaluation of the facility by a building inspector of the Department of Public Safety of the Commonwealth to assist in making such determination. The Board may also retain specialists to evaluate compliance with the standards of 603 CMR 38.02.

(3) Priority Two. Priority shall be given to school projects needed in the judgment of said Board to prevent severe overcrowding expected to result from increasing enrollments or to eliminate existing severe overcrowding.

(a) For purposes of 603 CMR 38.02, overcrowding shall mean a student density within the school facility as a whole substantially exceeding the density standards established in 603 CMR 38.04, or substantially exceeding the enrollment for which the school was planned, and shall not include overcrowding in an individual subject area or areas. Thus, for example, a school not otherwise overcrowded and having only one specialized space for a specific subject area would not be determined to be overcrowded under 603 CMR 38.02 if it were claimed that two such specialized spaces instead of one were needed to accommodate those students desiring to enroll in that subject.

(b) In determining that a proposal is a Priority Two proposal, the Board may require the applicant to submit:

1. Enrollment projections from as many sources as it deems necessary, including those developed by the Department of Education.
2. Statements from local officials and from other qualified sources which would establish the likelihood of sustained severe overcrowding or of increasing enrollments leading to severe overcrowding.

(4) Priority Three. Priority shall be given to school projects needed in the judgment of said Board to prevent loss of accreditation.

In order to qualify as a Priority Three proposal, a proposed project must be designed to remedy the loss of accreditation or the threat of such loss due to inadequate facilities.



38.02: continued

In determining that a proposed project is a Priority Three proposal, the Board may require the applicant to submit copies of all relevant correspondence and reports between the accrediting agency and the applicant establishing the loss of accreditation or threat of such loss as caused at least in part by inadequate facilities.

Representatives of the Board shall meet with representatives of the accrediting agency to review the merits of the position of the accrediting agency in cases where differences of opinion may exist between the agency and the Board.

- (5) Priority Four. Priority shall be given to any school project needed in the judgment of said Board for the replacement, renovation or modernization of the heating system in any schoolhouse to increase energy conservation and decrease energy related costs in said schoolhouse.

To qualify as a Priority Four project:

- (a) a school building shall be generally capable of supporting a modern educational program:
- (b) the building must be needed for educational purposes as evidenced by enrollment:
- (c) the use of the building as a schoolhouse shall be planned for a period of five years after the replacement, renovation, or modernization of the heating system;
- (d) the applicant city, town, or regional school district shall demonstrate to the satisfaction of the Department of Education that the proposed replaced, renovated, or modernized heating system will be less costly and more energy efficient to operate than the existing system so that the requirement of Section 5 of Chapter 645 of the Act may be clearly met.

See 603 CMR 38.04(10) for procedures applicable to this type of project.

- (6) Priority Five. Priority shall be given to school projects needed in the judgment of said Board to replace or add to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements.

In finding a Priority Five status, the Board shall determine that the proposed facility is needed and shall determine that the proposed program is consistent with current state and local requirements and with current good educational practice.

- (7) In considering projects involving occupational education programs and spaces at the secondary school level, the Board may give priority to those applicants which promote the delivery of occupational programs in urban and suburban areas and which provide or amplify such programs in general, academic, or comprehensive high schools.

38.03: Procedures and Program and Cost Standards  
(See 603 CMR 38.04(10) for exception.)

603 CMR 38.03 is promulgated pursuant to the authority of the Board stated in Section 8C of Chapter 645 of the Acts of 1948, as amended, to issue regulations for the implementation of that section.

- (1) Procedures for Application. Annually, the Board shall announce the application period and procedures which applicants are required to follow in order to apply to the Board for a financial grant for school construction during the following fiscal year.

Annually the Board shall compile by tentative priority categories a list of prospective applicants for school building assistance for the following fiscal year based upon the outcome of Building Needs Conferences conducted prior to the compilation of such list. This list shall be the basis for the Board's request to the legislature for authorizations. The Board may limit its request to the legislature for an authorization amount equal to the sum of the estimated annual payments of those project proposals which said Board deems to be in the best interest of the Commonwealth and the applicant and which it deems most likely to receive local bond authorization support.

General procedures for applying for a grant under the Act shall include but not be limited to the following:

- (a) The applicant shall participate in a building needs conference to establish need and develop a long-range plan pursuant to 603 CMR 38.03(2).
- (b) The applicant shall demonstrate that the proposed site meets the requirements of 603 CMR 38.03(2)(c).
- (c) The applicant shall develop a set of educational specifications within the meaning of 603 CMR 38.01 and as further described elsewhere in 603 CMR 38.00 and shall review them with staff of the School Building Assistance Bureau.
- (d) The applicant shall develop a set of preliminary plans as defined in 603 CMR 38.01 and as further described elsewhere in 603 CMR 38.00 and shall review them with staff of the School Building Assistance Bureau.
- (e) The applicant shall develop a set of final working drawings as defined in 603 CMR 38.01 and as further described elsewhere in 603 CMR 38.00 and a set of construction specifications and shall review them with staff of the School Building Assistance Bureau. At its discretion, the Board may approve a project prior to the development of final working drawings and specifications.

Prior to approval of an application for a grant by the Board, the applicant shall submit certification of the availability of funds sufficient to cover the estimated cost of the proposed project.

38.03: continued

- (2) Building Needs Conference. In order to establish need for a proposed project, and to ensure that all alternatives for satisfying said need are fully addressed, the Board through the School Building Assistance Bureau shall conduct a Building Needs Conference, pursuant to the provisions of 603 CMR 38.03.
- (a) Representatives of the applicant including but not limited to one or more representatives of the school committee; one or more members of the building committee appointed by authority of town meeting, where applicable, or in the case of cities, a representative of the office or body authorized by law to construct school buildings in that city; and the superintendent of schools or his designee, shall meet with representatives of the School Building Assistance Bureau and other officials of the Department of Education, as appropriate.
- (b) The Building Needs Conference shall include consideration of the following to determine whether proposed projects are in the best interest of the applicant and of the Commonwealth with respect to site, sufficiency of accommodation, efficiency, and cost effectiveness, and to examine alternatives available to meet the needs for facilities.
1. The current enrollment in the applicant's schools and projected enrollments up to ten years in the future.
  2. The current and proposed grade organization plan.
  3. The current size and grade organization of the school system.
  4. The manner in which occupational education and special education programs will be made available to pupils in the system. Preference shall be given to proposals designed to provide delivery of occupational programs in comprehensive academic secondary schools.
  5. The capacity of the existing school plant.
  6. The condition of the existing school plant and its probable use in the future, and recommendations for abandonment, remodeling, rehabilitation, reconstruction, modernization or addition to the existing buildings.
  7. Procedures to be followed by the applicant throughout the planning and construction of the project such as will assure maximum attention to the cost effects of program and design decisions, materials and systems selections.
  8. Options of tuitional agreements with adjacent school districts, of renting and acquisition of existing structures, together with conversions necessary to create a facility necessary to support a modern educational program. The availability of space in adjacent districts shall be considered as an alternative to construction.
  9. If the project as proposed by the applicant involves the construction of a new facility the Building Needs Conference shall review the cost benefit analysis prepared pursuant to 603 CMR 38.03(3)(1), to determine if there are other feasible alternatives that would be better suited, in terms of the educational need and total cost effectiveness and efficiency, to meet the applicant's projected need.

38.03: continued

If need for a school project is established, the following shall be developed as a result of the conference between the applicant and the Department.

a. An educationally and financially sound long-range facilities plan for the system.

b. Agreement upon the scope of a proposed project including a specific number of students for a specific range of grades.

c. Assignment of a priority status to be recommended to the Board for the project.

(c) Site. A school site shall conform to the following requirements:

1. The site selected shall be chosen on the basis that it will meet the educational need and minimize any possible adverse educational, environmental, social, or economic impact upon the community. Such adverse impact includes, but need not be limited to the following: need to provide new sewers, roads, transportation facilities, water supply, water connections, and the like, to the site; existence of soil conditions which will cause site development costs to be greatly increased; curtailment of the approved educational program.
2. The site shall be so located as to serve efficiently and safely the school population it is intended to serve and shall be of sufficient size to accommodate the building and planned future additions thereto, the agreed upon outdoor educational program, needed parking areas, bus turnarounds, delivery areas, required setbacks and planned aesthetics.
3. The site shall be reasonably free from olfactory, auditory, visual, and noxious pollution, or should be capable of being made so prior to commencement of construction.
4. The site shall not be excessively costly to the community by reason of the presence of excessive ledge, undesirable soil conditions, the need for extensive archeological surveys, and costs related to relocation of individuals or businesses on the site.
5. The existence of appropriate public facilities that can enhance the school's educational program which are located in close proximity to the site may be considered to reduce the number of spaces needed to carry out the educational program of the school, provided that sufficient long-term commitments satisfactory to the board can be arranged to ensure that these facilities will be available for use by the school in the same manner and to the same degree as if they were in fact integral elements of the school.

Proximity to other facilities such as libraries, museums, parks, natural resources, nature study areas, etc., which would enhance the proposed educational program shall be carefully studied and strongly encouraged.

Site approval shall be made by letter from the School Building Assistance Bureau.

38.03: continued

- (d) Educational Specifications. Each applicant shall submit educational specifications as defined in 603 CMR 38.01 and such other materials relating to educational specifications as are required by 603 CMR 38.00 or by the Board, and such specifications when approvable shall receive staff approval in the form of a letter from the School Building Assistance Bureau.
  - (e) Preliminary Plans. Each applicant shall submit preliminary plans as defined in 603 CMR 38.01 and such other materials relating to preliminary plans as are required by 603 CMR 38.00, provisions of statute, and the Board. Such specifications when approved shall receive staff approval in the form of a letter from the School Building Assistance Bureau.
  - (f) Final Working Drawings. Each applicant shall submit final working drawings as defined in 603 CMR 38.01 accompanied by construction specifications. Such plans when deemed approvable shall be approved by letter from the School Building Assistance Bureau.
  - (g) Plans - General. On each set of preliminary and final plans submitted for approval, the applicant shall label each space as identified in the educational specifications (space computations) and shall show the net square footage of each such space.
  - (h) With each set of preliminary and final plans submitted for approval the applicant shall provide a statement of gross square footage detailed according to the components Basic Instruction Space, Miscellaneous Educational Spaces, and Other, as defined in 603 CMR 38.04(6)(a)2.
  - (i) Certification of Funds. Prior to approval of an application for a grant by the Board, the applicant shall submit certification of the availability of funds sufficient to cover the estimated cost of the proposed project.
- (3) General Procedures Applicable to All Projects, (See 603 CMR 38.04 (10) for exception.) In order to assure maximum attention to the cost effects of program and design decisions and materials and systems selections, the applicant shall comply with the following:
- (a) New school buildings shall be planned for a minimum educational life of fifty years. Renovations and acquired facilities shall also be planned for a minimum educational life of fifty years.
  - (b) Buildings shall be designed to minimize vandalism, and materials and finishes shall be selected to minimize such vandalism.
  - (c) All facilities in an approved school project shall provide for equality of educational opportunity without discrimination on account of sex, race, color, religion, or national origin, and

## 38.03 continued

shall meet the requirements of M.G.L. c. 76, s. 5 and regulations made thereunder. Projects shall comply with all applicable provisions of federal, state and local law relative to the accessibility of programs and facilities to handicapped persons. Examples of such provisions are the regulations published by the Massachusetts Architectural Barriers Board and those promulgated under Section 504 of P.L. 93-112.

- (d) Applications shall be reviewed by specialists of the School Building Assistance Bureau for educational adequacy and for compliance with the provisions of 603 CMR 38.00 and approval shall be signified by letter from the School Building Assistance Bureau.
- (e) Applicants shall submit an appropriate statement accompanying preliminary and final drawings certifying that plans for the proposed project as developed to that point represent to the best of the applicant's ability satisfactory cost effective design, material, and finish decisions consistent with current good value engineering review practice and the provisions of Chapter 645 of the Act and of 603 CMR 38.00. Such statement shall specify the procedure by which the project shall be planned and designed to achieve a desired standard of excellence at most effective cost, and that a systematic approach shall be employed to identify and remove unnecessary costs as these relate to the selection or design of the following:

- Energy use
- Site
- Site preparation
- Utilities design and location
- Foundations
- Structural systems
- Roof systems
- Carpentry
- Masonry
- Roofing
- Windows and glazing
- Acoustics
- Plumbing
- Heating and ventilating systems
- Electrical systems
- Exterior facing
- Site development
- Fixed equipment

In the interest of cost effectiveness, the applicant shall carefully weigh the effects of initial capital costs against maintenance costs over the life of the building in order to reduce such maintenance costs.

38.03: continued

Life-cycle cost estimates of all technically feasible energy systems as defined in Chapter 433 of the Acts of 1976, shall be considered during the preliminary design stage in order to ensure that the energy system with the lowest life-cycle cost estimate will be identified in accordance with the provisions of Chapter 433.

- (f) During construction, staff of the School Building Assistance Bureau may visit the construction site to determine that the project is being built as approved. A review of the facility in operation shall be made prior to the determination of the final approved cost of the project.
- (g) All construction contracts and sub-contracts shall be in conformity with all applicable provisions of federal, state and local law, and where in the judgment of the Board, violations of such laws are deemed to exist, the Board may withhold funds due on account of the project until such violation shall be remedied.
- (h) All construction contracts shall be in conformity with applicable law and regulations related to minority hiring. Every state assisted contract for a school project including sub-contracts shall include the Commonwealth's Supplemental Equal Employment Opportunity/Anti-Discrimination and Affirmative Action Program as part of the contract. Compliance with and enforcement of all safety and building code provision, shall be the responsibility of the applicant.
- (i) General. An applicant for any school project shall fully explore the feasibility of renovating its existing school building, if such is structurally sound or can be made so, and/or of acquiring by purchase, lease, or other devise, an existing building, or buildings which are structurally sound, available within the community, and adaptable for school purposes.

In the case of any proposed school project which involves construction of a new facility, an applicant for such project shall present full documentation to demonstrate that there are no existing buildings available, including the present school building itself, if such exists, that are structurally sound or are reasonably capable of being made so that they could be feasibly renovated and/or adapted for school purposes. Such documentation shall be in the form of a cost benefit analysis which clearly and fully shows that the proposed new construction is the best available alternative to meet the projected need based upon the educational program to be housed, total cost effectiveness, and the public interest. Factors that shall be considered in such analysis shall include, but not necessarily be limited to the following:

1. Direct costs of the project as proposed, including cost of acquisition of any land, if such is necessary, actual construction costs, and cost of equipment and furnishings.

## 38.03: continued

2. Direct costs of renovating the present school building, if such exists, is structurally sound or can reasonably be made so, and can be feasibly converted to support a modern program; as well as costs of any additional equipment or furnishings necessary.
  3. Direct costs of reusing an existing structurally sound building, or buildings, available within the community, that could be adapted for school purposes to support the approved program, such costs to include the cost of acquisition (if any), of such building, or buildings, either through purchase, lease, or other devise, and the cost of any repair, restoration, or other work, necessary to adapt the building, or buildings, for school use, as well as the cost of equipment and furnishings.
  4. Indirect costs associated with each of the alternatives set forth in 603 CMR 38.03(3)(i)1. through 3., including the costs to the community and to the Commonwealth, resulting from the need to provide new sewers, roads, transportation facilities or services, utilities, water connections, or the like, if any, for each alternative set forth in 603 CMR 38.03(3)(i)1. through 3.
  5. Costs or benefits to the community caused by the abandonment of the present school building including the effect such abandonment will have upon existing public, as well as private investment in the areas including its potential sale. Demolition costs, or existing opportunities for reuse of such building, if any, shall also be included.
- (j) Appeals. Appeals of decisions of the staff of the Department of Education shall proceed from the level at which any such decision was made to the next level according to the following order:

Assistant Administrator, School Building Assistance Bureau;  
 Administrator, School Building Assistance Bureau;  
 Associate Commissioner, Division of School Facilities and Related Services;  
 Commissioner of Education;  
 Board of Education.

38.04: Program and Cost Standards

- (1) Annual Issuance of Standards. The Board shall issue annually program standards and cost standards for all proposed school projects.
- (2) General Requirements. A school project shall be designed based upon an approved program for a specified number of students for a typical academic week.



38.04: continued

The academic week shall be consistent with current good practice and shall consist of subjects approved by the school committee and shall comply with requirements of law and regulations of the Board relative to curriculum, program, and length of school day and year, and in addition may contain provision for community programs approved by the Board, supportive of activities for all residents designed to promote individual growth and citizenship.

Facilities for community programs may be included in the approved school project and may be shared in financially by the Commonwealth provided that such facilities support programs approved by the Board, and by the local school committee or other local agency or office having lawful control of community programs, and are otherwise consistent with the Act and 603 CMR 38.00. Community school spaces shall be included within the gross square footage established in 603 CMR 38.04. Additionally, should the community program warrant it, additional community space not to exceed 1,800 square feet, may be approved, if the approved community program cannot be accommodated within the approved gross square footage and such additional space may be shared in financially by the Commonwealth.

A school project shall consist of spaces needed to support the approved program.

- (3) Planned Enrollment. The Department and the applicant shall agree on a planned enrollment for the school project. The planned enrollment shall be consistent with demonstrable need.

Elementary schools shall not be planned to serve more than four classes per grade; junior high schools and middle schools shall not exceed 1200 pupils in planned enrollment, and high schools in grades 9-12 shall not be planned to exceed 2000 pupils in planned enrollment.

Generally, schools shall be planned to accommodate at least the following minimum enrollments:

- (a) Elementary schools - two classes per grade or ten general classrooms or equivalent general areas.
  - (b) Junior high and middle school - from grade 4 up to grade 8 - 400 pupils
  - (c) High schools - 9-12 - four grades - 500 pupils.
- Exceptions may be made to the above minimum and maximum standards in circumstances determined appropriate by the Board of Education.

- (4) Gross Square Footage and Cost Standards. The Commonwealth shall share in construction of school facilities within the following limitations in gross square footage determined according to the method of computation contained in 603 CMR 38.04(6)(a), provided that the square foot costs per pupil in planned enrollment does not exceed the amounts in 603 CMR 38.04(6)(c) as modified in 603 CMR 38.04(6)(b). The Administrator, School Building Assistance Bureau, shall have discretion to make reasonable adjustments in cases where core facilities are planned for numbers in excess of agreed upon initial planned enrollment.

38.04: continued

(5) Square Footage Requirements.

(a) The gross square footage limits are as follows:

1. Elementary Schools - not more than 115 square feet per pupil in planned enrollment. Kindergarten enrollment shall be halved.
2. Middle Schools/Junior High Schools - not more than 135 square feet per pupil in gross square footage.
3. High Schools General or Academic - not more than 155 square feet per pupil in gross square footage.
4. Vocational Technical Schools - not more than 225 square feet per pupil in gross square footage.

The gross space limitation for vocational technical programs approved by the Department of Education in a general or academic secondary school (comprehensive high school) shall be computed by multiplying the number of approved occupational spaces by the per pupil square foot allowance for vocational technical schools.

The Department may with the approval of the Board make reasonable departures from these gross square footage requirements to accommodate proposed projects, approved after August 1, 1977, especially in cases involving additions to, acquisitions of, or remodeling of buildings where such departures will be consistent with the intent of 603 CMR 38.00 to provide adequate, safe, cost effective, and creative school projects.

- (b) The following are standards for program activities eligible for state financial assistance for school construction. In the case of open plan buildings, the Board may permit reasonable variations from the size of the listed program spaces with adjustment in gross project allowance where it can be demonstrated that the planning for such facility reflects good educational practice. Exceptions may also be made to the following minimum and maximum program standards in circumstances determined appropriate by the Board of Education. Special educational spaces may receive special consideration in the discretion of the School Building Assistance Bureau and the Division of Special Education, notwithstanding the gross square footage allowances contained in 603 CMR 38.00.

TABLE 1  
ELEMENTARY SCHOOL PROGRAM STANDARDS

Program spaces for an elementary school shall be shared in by the Commonwealth if they fall within these ranges. A variation of 5% is permitted.

<u>All spaces exclusive of storage</u>	-	<u>minimum - maximum</u>
<u>Classrooms</u>		900 - 1000 square feet
<u>Kindergarten</u> (with self-contained lavatory)		1200 - 1300 square feet
<u>Special Education</u>		as needed
<u>Art</u>		1000 - 1200 square feet
<u>Music</u>		1000 - 1200 square feet
<u>Practice Rooms</u>		75 - 130 square feet
<u>Ensemble Rooms</u>		to 200 square feet
<u>Media Center/Library-Reading Room</u>		1800 - 3000 square feet
<u>Cafeteria</u>		15 square feet per pupil computed to accommodate not more than 1/2 nor less than 1/3 the planned enrollment.
<u>Gymnasium</u>		
1. Twelve classroom school or larger-separate gymnasium		2000 - 3000 square feet per station
First two teaching stations.		
2. Smaller school, all-purposes room or third teaching station and subsequent teaching stations.		1800 - 3000 square feet each
<u>Administration</u>		to 800 square feet
<u>Health Suite</u>		300 - 750 square feet
<u>Guidance Suite</u>		as needed
<u>Remedial and Seminar</u>		to 500 square feet each

38.04 continued

TABLE 2  
SECONDARY SCHOOLS PROGRAM STANDARDS

Program spaces for a secondary school may be shared in by the Commonwealth if they fall within these ranges. A variation of 5% is permitted.

Classrooms

- |  |                         |
|--|-------------------------|
| 1. Small group Seminar                       | 300 - 500 square feet   |
| 2. Regular Interchangeable<br>(20-30 pupils) | 750 - 850 square feet   |
| 3. Large Group (80-125 pupils)               | 1500 - 2000 square feet |

Art

- |  |                         |
|--|-------------------------|
| 1. General Area (storage not<br>included)      | 1200 - 1400 square feet |
| 2. Specialized Areas (storage<br>not included) | 600 - 1000 square feet  |

Music

- |                                      |                            |
|--------------------------------------|----------------------------|
| 1. Rehearsal (band, chorus,<br>etc.) | 1400 - 1600 square feet    |
| 2. Theory and Choral                 | 750 - 1200 square feet     |
| 3. Practice Rooms                    | 75 - 130 square feet       |
| 4. Ensemble Rooms                    | up to 200 square feet each |

Business Education

- |               |                        |
|---------------|------------------------|
| 1. Classroom  | 750 - 850 square feet  |
| 2. Laboratory | 750 - 1100 square feet |

Homemaking

- |   |                         |
|---|-------------------------|
| 1. Food Area  | 1200 - 1400 square feet |
| 2. Home Management<br>(depending on nature<br>of program - can also<br>be in regular classrooms.) | 2400 - 2600 square feet |
| 3. Clothing (1 usually<br>planned for 20 students,<br>may vary from 16-24.)                       | 1200 - 1400 square feet |

Industrial Arts

- |                                      |  |
|--------------------------------------|--|
| Shops                                | up to 100 square feet per pupil<br>each shop |
| Mechanical Drawing<br>(25-30 pupils) | 900 - 1000 square feet                       |

Science

- |                                     |                         |
|-------------------------------------|-------------------------|
| 1. Lecture-Laboratory               | 1000 - 1200 square feet |
| 2. Demonstration/General<br>Science | 900 - 1000 square feet  |

Cafeteria

15 square feet per pupil computed to accommodate not more than 1/2 nor less than 1/3 the planned enrollment.

38.04 continued

TABLE 2 (continued)Physical Education

- |                                |                              |
|--------------------------------|------------------------------|
| 1. Gymnasium (2 stations)      | 6200 - 7500 square feet      |
| 2. Additional Teaching Station | 1200 - 3500 square feet each |

Library (Instructional Materials Center)

Reading room - up to 15% of enrollment x 40 square feet - maximum  
(Other areas may be added, if planned, i.e., office, conference, etc.)

Auditorium

Seating for not more than planned enrollment or more than 1000 persons, if the planned enrollment exceeds 1000 7 square feet per person maximum

Allow

Administration

to 1500 square feet

Guidance

800 to 1000 square feet

Health

500 - 1000 square feet

TABLE 3  
JUNIOR HIGH SCHOOLS AND MIDDLE SCHOOLS

Educational program spaces in the junior high and middle school shall be the same as noted above for the secondary school, with appropriate adaptations, such as:

Science

1000 - 1200 square feet

Physical Education (2 stations)

4500 - 7500 square feet

Additional Stations

up to 3000 square feet each

Industrial Arts

1500 - 1800 square feet per station

38.04 continued

- (6) Computations. For the purpose of calculating the state construction grant the estimated approved cost and the final approved cost for a school project shall not exceed the cost that would result by multiplying the gross square footage per pupil by the planned enrollment and by multiplying the result by the established cost per square foot. The project shall also conform as set forth in 603 CMR 38.00 to minimum program standards.

The above provision shall not be deemed to preclude a city, town, regional school district or county from including in an approved school project such facilities or design as it determines, in addition to those required to conform to minimum program standards and costs, provided, however, that the cost of such additional facilities and design shall not be included in the estimated approved cost and final approved cost on the basis of which the state construction grant is calculated.

Upon determination of the final approved cost of a project, the Board may recompute the maximum cost limitations using the cost standards in effect on the date the general contract for the project was signed, and the grant may be adjusted accordingly.

For purposes of determining grants for approved school projects, computations shall be made in accordance with the following provisions.

- (a) Space Computations. Gross and net square footage and perimeter measurements shall be reported with all preliminary, revised, and final drawings submitted for approval, and shall be computed according to the following methods.

1. Gross Square Footage. The gross area of a building is the sum of all areas of the several floors, including mezzanines, stairwells, and basements having a floor slab and 7'0" or more headroom. Additionally covered walkways, roofed-over areaways or courts, and similar areas shall be included in the gross area at one half their actual area.

All horizontal measurements shall be taken from the exterior face of enclosing walls, at the plane of the floor.

The following shall not be included in gross area computation: basements having no floor slab or less than 7'0" headroom; pipe trenches; retaining walls; roof overhangs; exterior terraces; and courts open to the sky.

2. Net Square Footage. The net area of individual spaces shown on approved educational specifications and included in the plans shall be measured from the inside face of enclosing walls and partitions. Wall thicknesses shall be excluded.

a. "Basic Instructional Spaces" (classrooms) shall include the net area of all non-specialized and special subject teaching areas, including directory-related preparation and equipment storage rooms. Do not include the area of such spaces as ancillary toilets, wardrobes, and teachers' supply closets.

38.04: continued

b. "Miscellaneous Educational Space" shall include the net area of miscellaneous specified or required educational space, such as gymnasium locker rooms, cafeteria dining areas, kitchens, administration offices, health service unit, guidance quarters, teacher workrooms, storage, community rooms and serving rooms.

c. "Other" Square footage is determined by subtracting "Basic Instructional" and "Miscellaneous Educational" spaces, determined as above, from the calculated gross area. Thus, "Other" will include wall thicknesses; corridors, stairways and other circulation space; general storage areas; custodians' closets and receiving areas; toilets; and heating and mechanical spaces.

3. Perimeter The perimeter of a building shall be the sum of the lineal length of the enclosing walls (including piers, wall extensions and courts) taken at the plane of the floor level, including finished basements.

(b) Grant Computations. Grants shall be computed according to the provisions of Chapter 645 of the Act and in accordance with the provisions of the following:

1. New Construction. As in Chapter 645 of the Act, provided that if an applicant includes in an approved school project facilities in addition to those required to conform to the program standards and exceeds the allowances in 603 CMR 38.00, the cost of such additional facilities and design shall not be included in the estimated approved cost and final approved cost on the basis of which the state construction grant is calculated.

2. Additions. The Board may in its discretion make reasonable departures from the gross square footage requirements to accommodate proposed additions approved after August 1, 1977 where such departures will be consistent with the intent of 603 CMR 38.00 to provide adequate safe, cost effective, and creative school projects. This provision will allow the Board in its discretion to approve additions to older buildings whose design may be more cumbersome than more recently designed buildings.

In determining the allowable costs for an addition, the Board shall consider the nature of the approved spaces to be added, the nature of the required equipment and other furnishings, the relationship of the addition to other elements of the school and any factor which would cause the cost of the addition to exceed substantially the cost standard established for new construction, and may in its discretion allow the increased costs or a lesser amount. The intent of 603 CMR 38.04 is to make allowance for the varied nature of additions to school buildings.

Includable renovation in the original building shall be computed by the method applicable to renovation projects, below.

38.04: continued:

3. Renovation Projects. The cost of renovation projects approved after August 1, 1977 shall not exceed the estimated costs of equivalent space in new construction computed on the actual gross square footage of the facility.
4. Acquisitions. The value of a facility to be acquired shall be determined by the Board on the basis of the reports of at least two fee appraisers registered with the Attorney General and retained by the applicant.  
The final approved cost of combined acquisition and renovation and conversion work shall not exceed the equivalent costs in new construction.
5. Central Food Production Facilities. Space and equipment for central food production facilities shall be based on demonstrated need, shall be reasonable, and shall be approved by the School Building Assistance Bureau after consultation with the Bureau of Nutrition Education and School Food Services.

In cases of new construction, the grant shall be based on actual costs. In cases of acquisitions, the value of the facility shall be determined as in 603 CMR 38.04(4)(b). Renovation and conversion costs shall be reasonable.

Grants approved under 603 CMR 38.00 may be computed at not more than the following amounts per square foot provided that other requirements of 603 CMR 38.00 have been met. The square foot costs listed below shall include the cost of the general contract, fees, all equipment, allowable site preparation, site development, insurance, contingency amount, and miscellaneous costs and shall apply to projects approved after June 30, 1985.

TABLE 4

Elementary School	\$105.50	per square foot
Middle School/Junior High School	\$112.00	per square foot
High School	\$119.00	per square foot
Vocational School	\$129.00	per square foot

(1)

Upon determination of the final approved cost of the projects the Board may recompute the maximum cost limitations using the cost standards in effect on the date the general contract for the project was signed, and the grant may be adjusted accordingly.

Where it can be demonstrated during planning or thereafter that, despite all reasonable precautions having been taken, site conditions, general market conditions, or the location of a project will lead to extraordinary costs, the Board in its discretion may increase the otherwise permissible cost.



38.04: continued

In the case of an increase attributable to general market conditions, the Board in its discretion may increase the permissible costs for new construction by an amount not to exceed five percent of the estimated approved construction costs as described in 603 CMR 38.04.

(7) Growth Districts

- (a) No grant for a growth district as defined in Section 9 of Chapter 645 of the Acts of 1948, as amended, shall be approved for an amount less than seventy percent nor more than seventy-five percent of the approved cost, such cost to include one hundred percent of interest paid or payable as provided in Section 7 of Chapter 645.

In approving a grant for a system classified as a growth district, the Board shall determine by a written finding that the district conforms to the following criteria:

1. The actual increase in school attending children in the district has been more than five percent over the past eight years, e.g., 5.01 percent; or
  2. The projected increase in enrollment for the next five years will be five percent or more, e.g., 5.00 percent; and
  3. Such projected increase in enrollment for the next five years is greater than the statewide projection. For the purpose of 603 CMR 38.04(7), district shall mean any city, town, or regional school district within the Commonwealth.
- (b) In determining the actual increase in school attending children, school enrollments, and the statewide projection:
1. The number of school attending children used in determining the percent of increase shall be either the number of school attending children in the district as reported in the most recent School Attending Children report filed in response to the directions of the Department of Education or the number of school attending children in the district on the preceding January 1, validated to the satisfaction of the Department of Education, and the percent of increase shall be determined through two places past the decimal by comparison with past school attending child data similarly reported eight years previously and validated so that the statutory requirement of an increase of greater than five percent over the past eight years may be met; e.g., January 1, 1983 data in comparison to January 1, 1975 data.
  2. The next five years shall mean the five year period beginning with the next academic year following the date on which such determination of growth district is to be made.
- Enrollment projections generated by the Department of Education shall be an acceptable standard for determining the growth in a district for the next five years. Enrollment projections developed from other sources may also be considered by the Board in determining the percent of increase. All projections shall be subject to interpretation and acceptance by the Board of Education.

38.04: continued

3. The statewide projection shall be as determined by the Department of Education.

(8) Construction to Reduce or Eliminate Racial Imbalance.

Notwithstanding any provision of M.G.L. c. 15, s. 11, to the contrary, the Board of Education may increase the amount of grants for school construction when application for such grant is submitted or approved after December 31, 1981 and prior to July 1, 1984 to an amount not to exceed ninety percent of the approved cost whenever the board is satisfied that the construction of a schoolhouse is for the purpose of reducing or eliminating racial imbalance provided, however, any such grant for an amount greater than seventy-five percent of the approved cost shall be approved by the Board of Education with the concurrence of the House and Senate Committees on Ways and Means.

It shall be the policy of the Board to approve such projects at ninety percent of approved costs, e.g., 90% of construction and interest costs.

(9) Procedures for Application for Priority Four Projects

(a) Annually, the Board shall announce the application period and procedures which applicants are required to follow in order to apply to the Board for a financial grant for school construction during the following fiscal year.

Annually, the Board shall compile a list of prospective applicants for school building assistance for the following fiscal year based upon the outcome of Building Needs Conference conducted prior to the compilation of such list. This list shall be the basis for the Board's request to the legislature for an authorization amount equal to the sum of the estimated annual payments of those project proposals which said Board deems to be in the best interest of the Commonwealth and the applicant and which it deems most likely to receive local financial support.

The following application procedure shall apply to projects for the replacement or improvement of a heating system.

(b) The applicant shall meet with representatives of the School Building Assistance Bureau to establish that:

1. The heating system needs replacement, renovation, or modernization.
2. The school building affected is generally capable of supporting a modern educational program. This means that the building has teaching stations and support areas in sufficient size and numbers to be recognized as a reasonably modern school building and appears to be structurally sound. Where doubt exists, the Department may require the applicant to provide additional documentation to substantiate the application.

38.04: continued

3. The building is needed as an element of the school plant in the school system and that it will remain in active service as a schoolhouse for a period of at least five years after installation or completion of improvements.

(c) The applicant shall demonstrate by an energy audit or by other documentation required by the Department that the proposed heating system will be less expensive and more energy efficient to operate than the existing system so that the requirements of 603 CMR 38.02(5) may be clearly met.

(d) All construction documents including plans and specifications shall bear the stamp of approval and signature of the building inspector in whose jurisdiction the replacement, renovation, or modernization of the heating system will take place.

(e) The applicant shall submit the approval bid documents including working drawings and construction specifications. The drawings and specifications shall be approved by the School Building Assistance Bureau.

(f) Prior to approval of an application for a grant by the Board of Education, the applicant shall submit certification of the availability of funds sufficient to cover the estimated cost of the proposed project.

(g) No school construction project shall be an approved school project unless and until the School Building Assistance Bureau and the Division of Special Education in the Department of Education are satisfied that adequate provisions have been made for children with special needs as defined in M.G.L. c. 71B, s. 1.

### 38.05 School Improvement Projects

(1) The following shall apply in general to all school improvements projects:

The applicant shall meet with representatives of the School Building Assistance Bureau to establish that

(a) A school improvement project is needed.

(b) The school facility in question is generally capable of supporting a modern educational program. This means that the facility has teaching stations and support areas in sufficient size, number, and condition to be recognized as a reasonable modern school building or kitchen and appears to be structurally sound. Where doubt exists, the Department may require the applicant to provide additional documentation to substantiate the application.

38.05: continued

(c) The school facility in question is itself needed as an element of the school plant in the system and that it will remain in active service as a schoolhouse for a period of at least eight years after completion of the improvement project.

(2) The following are examples of school improvement projects and the types of minimum requirements necessary for approval. Additionally, the applicant shall supply whatever documentation is reasonably required by the Department to support an application. Such documentation may include, but not be limited to, educational specifications, records of maintenance, engineering and architectural reports, analyses, and plans, and copies of local votes and policy decisions, in order to determine that the intent of the statute and the need for school improvement are compatible.

(a) A ROOF REPLACEMENT OR RECONSTRUCTION PROJECT

1. The applicant shall establish that roof deterioration is not due to a pattern of deferred maintenance, and that roof replacement or reconstruction is needed.
2. The applicant may be asked to provide assurance that steps will be taken to reduce the likelihood of premature roof failure. This assurance may extend to design, manufacture, installation, and maintenance of the roof replacement.
3. In the case of premature failure of the roof to be replaced or reconstructed, the applicant may be asked to provide a prorated share of damages received through insurance, litigation, settlement, bond or otherwise, to the extent that the Commonwealth shared in the original roof construction or replacement or take action similar thereto.

(b) A PROJECT TO MAKE A BUILDING ACCESSIBLE TO THE PHYSICALLY HANDICAPPED

1. Such project shall comply with all applicable provisions of federal, state and local law relative to the accessibility of programs and facilities to handicapped persons. Examples of such provisions are the regulations published by the Massachusetts Architectural Barriers Board and those promulgated under Section 504 of P.L. 93-112.

(c) A PROJECT TO MAKE A BUILDING MORE ENERGY EFFICIENT

1. The applicant shall establish through a technical review conducted by a professional engineer registered to practice in Massachusetts that as a result of the proposed project the school building will be more energy efficient to operate.

38.05: continued

2. The technical review shall include a written review and analysis of the efficiency and condition of the roof, building envelope, insulation, windows, heating system, and any other elements of the structure which contribute to such energy efficiency. Partial projects or reviews shall not be acceptable for consideration unless specifically authorized by the Department based upon documentation which establishes that such partial project or action based upon the technical review is sufficient to make the building more energy efficient consistent with the intent of the statute. In the case of phased projects, each phase shall be consistent with the long-range or total plan and shall contribute to energy efficiency.

(d) A PROJECT TO ELIMINATE A STRUCTURAL SAFETY HAZARD

1. The applicant shall establish the existence or potential existence of a hazard through a definitive study performed by a professional engineer licensed to practice in Massachusetts or by other competent authority.
2. The study shall clearly demonstrate that the proposed solution provides a satisfactory long-term solution to the hazard.

(e) A PROJECT TO PROVIDE SITE IMPROVEMENTS RELATED TO PHYSICAL EDUCATION, OUTDOOR EDUCATION, OR SAFETY

1. The applicant shall establish that the proposed project is needed to strengthen or improve the educational program and that the programs to be supported are approved by the School Committee.
2. Plans for proposed projects shall bear the seal of an architect, engineer, or other professional of appropriate registration registered to practice in the Commonwealth of Massachusetts.

(f) A PROJECT TO CORRECT OR IMPROVE DRAINAGE OR SEWAGE ON SITE

1. Such project must be for needed work within the boundaries of the school site.
2. The proposed solution must bear the seal of an engineer, architect, or other professional of appropriate registration registered to practice in the Commonwealth of Massachusetts.

38.06 Leasing of Space for Vocational Programs

603 CMR 38.06 is published pursuant to the authority of the Board of Education stated in M.G.L. c. 15, s. 1G, to administer and supervise the administration of vocational education programs in the Commonwealth; and pursuant to the authority of the Board of Education under Section 9A of Chapter 645 of the Acts of 1948 as inserted by Chapter 564 of the Acts of 1978 to approve reimbursement to cities, towns, and regional school districts for leasing and originally equipping and furnishing a building for the purpose of maintaining a vocational education program.

(1) Any city, town, or regional school district may apply to the Board for reimbursement of part of the costs of leasing and originally equipping a building in whole or in part for a term of not less than five years for the purpose of maintaining an approved vocational education program provided that the lease is approved by the Board of Education and that the term of the lease commences on or after July 1, 1978.

(2) Leasing is generally to be considered a short range solution to a short range problem designed to support a program of vocational education. An applicant for approval of a lease, therefore, shall fully explore the feasibility of renovating or adding to its existing buildings or of acquiring or constructing facilities needed to support on a long range basis a program of vocational education. An applicant for approval of a lease to house a program of vocational education shall demonstrate to the Board the cost effectiveness and educational advantages of leasing.

(3) The provisions of the regulations of the Board promulgated pursuant to M.G.L. c. 74 as amended shall apply to applications for leasing and initial equipping of facilities for vocational education.

(4) Educational specifications, proposed equipment lists, and all plans and other documents required by the Department or the Board shall be approved in advance by the Department of Education.

(5) All provisions of the proposed lease must be approved in advance of execution by the Department. The lease document shall list all owners of the property to be leased and the applicant shall disclose all financial interests in the property to be leased. Proposed second or subsequent leases shall be submitted for review and approval sufficiently in advance to permit alternate planning by the applicant should the Board fail to approve the application. The application for approval of a lease for a building which had been previously approved by the Board, that is, an application for a second or subsequent lease, shall be reviewed for appropriateness and cost effectiveness.

38.06: continued

(6) The Board may terminate all or part of its share of the lease costs and equipment costs if a building or portion thereof under lease ceases to be used for vocational education purposes as approved. Sub-leasing provisions, if any, shall be approved by the Board.

(7) Application for approval of a lease shall include copies of two appraisals of the premises to be leased to be made by two independent fee appraisers listed with the office of the attorney general in which a reasonable and fair purchase price and annual lease cost shall be included, together with the method used to determine the value of the building and the lease costs.

(8) The costs associated with remodeling the building to maintain a vocational education program, if determined by the Board to be reasonable and appropriate, may be included in the lease costs.

(9) Lease and equipment costs shall, in the judgment of the Board be reasonable.

(10) Lease costs to the state as the result of payments made under terms of a first or subsequent lease shall not exceed the estimated cost of the building as established at the inception of leasing, except in those cases in which the Board permits otherwise for reasons of educational or economic effectiveness or efficiency.

(11) Lease-purchase and lease-build arrangements shall not be approved. Exception to 603 CMR 38.06(11) may be considered under 603 CMR 38.07.

(12) An applicant for lease approval must demonstrate to the satisfaction of the Board of Education that premises to be leased are educationally adequate and are in compliance with existing local, state and federal safety standards.

38.07 Waiver

Except for the provisions relating to the increase in permissible costs for new construction contained in 603 CMR 38.04(6)(c), the Board may upon written application and with the recommendation of the Commissioner, grant a waiver of part or all of the requirements of 603 CMR 38.00 for good cause.

REGULATORY AUTHORITY

603 CMR 38.00: M.G.L. c. 15.

